



METROPOLITAN
TRANSPORTATION
COMMISSION

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Memorandum

TO: Commission

DATE: May 19, 2010

FR: Deputy Executive Director, Policy

W.I. 1221

RE: ClipperSM Memorandum of Understanding: MTC, AC Transit, BART, Caltrain, Golden Gate Transit District, SFMTA, Samtrans, VTA

At its May 14th meeting, the Operations Committee reviewed and referred for Commission approval: MTC's withdrawal from the TransLink[®] Interagency Participation Agreement (IPA); and negotiation and execution of a successor Clipper Memorandum of Understanding with participating transit operators.

MTC will initially execute the Clipper Memorandum of Understanding (MOU) with the agencies currently operating ClipperSM services, including Alameda-Contra Costa Transit District (AC Transit), the San Francisco Bay Area Rapid Transit District (BART), the Peninsula Corridor Joint Powers Board (Caltrain), the Golden Gate Bridge Highway and Transportation District (Golden Gate Transit District), the City and County of San Francisco, acting by and through its Municipal Transportation Agency (SFMTA); as well as with the two remaining operators who are nearing revenue ready status: the San Mateo County Transit District (Samtrans) and the Valley Transportation Authority (VTA).

Attachment A summarizes the key principles of the MOU as referred by the Operations Committee.

Ann Flemer

AF:mc

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Attachment A Principles of MOU

The recommended MOU defines:

1. *High level responsibilities of MTC and the Operators.* Items of note include:

For MTC:

- confirm existing obligations under the ClipperSM Contract to collect and disperse revenues to the participating agencies, according to the stated cost and revenue sharing formula;
- acknowledge responsibility for management of bank accounts and fiduciary duty to the cardholders;
- notify Operators of changes to Operating Rules, participate in consultation process on Rules changes, and provide regular reports to the Operators;
- pay fixed operating costs, specified variable costs and other lump sum and capital costs, and operator incentive fees; and
- make project records available to the operators (exact terms not yet agreed-upon).

For the Operators:

- implement and operate ClipperSM ;
 - pay specified variable operating costs; and
 - accept ownership of equipment one year after acceptance.
2. *Cost and revenue allocation formula.* The formula first adopted in the IPA is carried with minor revisions. Operating costs allocated to MTC and the Operators are specified described, and any changes require an amendment to the MOU. Operators agree to periodic reviews of the cost allocation formula to support fairness among Operators and accommodate changes.
 3. *Process for dispute resolution.* The TransLink[®] IPA called for, but never defined such a process. The proposed process first calls for informal dispute resolution and then allows escalation to mediation or arbitration, binding or nonbinding, as agreed by the parties.
 4. *Process for Operator input on MTC-proposed changes to Operating Rules.* MTC will provide at least 90 day notice for any changes impacting Operators' Roles and Responsibilities, and consult further with Operators, if requested. Disagreement about changes impacting Operators are subject to the dispute resolution process in the MOU, if the consultation process fails to result in agreement.
 5. *Process for new operator participation.* To implement ClipperSM, an agency must sign a supplemental agreement with MTC, agreeing to the terms of the MOU. MTC will not sign a supplemental agreement until Cubic and the operator are ready to implement Clipper.
 6. *Term of the MOU.* The MOU is effective on the date when all parties have signed the MOU and will terminate at conclusion of the ClipperSM Contract (November 2 2019), unless otherwise terminated by the parties.

REQUEST FOR COMMISSION APPROVAL

Summary of Proposed Memorandum of Understanding

Work Item No.: 310-2741

Parties: MTC, AC Transit, BART, Caltrain, Golden Gate Transit District, SFMTA, Samtrans, VTA

Project Title: ClipperSM Memorandum of Understanding

Purpose of Project: To formalize continuing obligations of MTC to participating ClipperSM transit operators and participating operators to MTC regarding the operation of and payment for the ClipperSM automated fare payment system.

Project Cost Not to Exceed: \$0. (MOU is not the basis for expenditure of funds for Clipper)

Fiscal Impact: MOU offsets a portion of MTC's costs under ClipperSM Contract. MTC fixed and operating costs are authorized under ClipperSM Contract, consistent with annual agency budgets.

Motion by Commission: That the Executive Director or his designee is authorized to negotiate and enter into a Memorandum of Understanding with AC Transit, BART, Caltrain, Golden Gate Transit District, SFMTA, Samtrans, and VTA, as described above, effective upon signature by all parties through November 2, 2019.

Commission:

Scott Haggerty, Chair

Approved: Date: May 26, 2010